

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

JOSHUA SHELEY,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 16-cv-686-MJR-SCW
)	
DENNIS FERLONG,)	
)	
Defendant.)	

MEMORANDUM AND ORDER

REAGAN, Chief Judge:

In June 2016, Plaintiff Joshua Sheley filed this lawsuit under 42 U.S.C. § 1983 alleging that Defendant Dennis Ferlong was deliberately indifferent in his treatment of Plaintiff's cavities. (Doc. 7). At the time that the Court reviewed Sheley's complaint, he was reminded that he was under a continuing obligation to inform the Court of any change in his address and was warned that a failure to do so could result in the dismissal of his claims. (Doc. 7, p. 8).

On November 1, 2017, Defendant Dennis Ferlong moved to dismiss Sheley's claims for failure to prosecute because Ferlong cannot communicate with Sheley or conduct discovery in compliance with the Court's scheduling order. (Doc. 61). On July 20, 2017, Sheley notified the Court of a change in his address (Doc. 48). According to Ferlong's motion, a certified letter setting a deposition was sent to Sheley's at his updated address, but the letter was returned unopened with a stamp that indicated that Sheley had moved and left no forwarding address. (Doc. 61-1). A second letter sent to

Sheley on October 18, 2017, was also returned. Magistrate Judge Williams set Ferlong's motion for hearing and warned Sheley that failure to appear would result in the dismissal of his claims. (Doc. 62). The notice was sent to Sheley's address, as listed on the docket sheet, and was returned as undeliverable. (Doc. 63). Sheley did not appear in person or by telephone for the hearing on Ferlong's motion to dismiss. (Doc. 64).

In light of Sheley's failure to appear and of his lack of participation in this case, Judge Williams, pursuant to 28 U.S.C. § 636(b), submitted a detailed report to the undersigned on November 20, 2017. (Doc. 65). The report recommends that the undersigned dismiss Sheley's case with prejudice for failure to prosecute and clearly states that any objections to the findings and recommendations were required to be filed "on or before December 7, 2017" (Doc. 65, p. 3). No objections were filed by that deadline, nor did either party move for additional time to file objections. So this Court need not conduct de novo review. *See* 28 U.S.C. 636(b)(1) ("A judge of the court shall make a de novo determination of those portions of the report or specified findings or recommendations to which objection is made."); Fed. Rule Civ. P. 72(b)(3) ("The district judge must determine de novo any part of the magistrate judge's disposition that has been properly objected to. The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions").

Accordingly, the undersigned District Judge **ADOPTS** in its entirety the report and recommendation submitted by Judge Williams (Doc. 65) and **GRANTS** Defendant Ferlong's motion to dismiss for lack of prosecution. (Doc. 61). Plaintiff Joshua Sheley's

claims against Defendant Dennis Ferlong are **DISMISSED with prejudice** for failure to prosecute.

IT IS SO ORDERED.

DATED: December 11, 2017

s/Michael J. Reagan
MICHAEL J. REAGAN
Chief Judge
United States District Court